



November 7, 2012
Via ECFS Filing

SE Acquisitions, LLC
d/b/a Lightyear Network Solutions of Kentucky
106 Scott Avenue
Pikeville, KY 41501
FRN: 0020-0857-75

Secretary, Federal Communications Commission
Washington, DC 20554
ATTN: Wireline Competition Bureau

Re: Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42
Lifeline and Link Up, WC Docket No. 03-109
Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch,

Enclosed for filing, please find the Petition for Waiver of Section 54.410(f) of the Commission's Rules submitted on behalf of SE Acquisitions, LLC d/b/a Lightyear Network Solutions of Kentucky.

This cover letter and associated attachments are being filed electronically today via the Federal Communications Commission's Electronic Comment Filing System (ECFS).

Any questions you may have regarding this filing should be directed to my attention at 407-740-3006 or via email to croesel@tminc.com. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Roesel", is placed above the printed name.

Carey Roesel
Consultant to SE Acquisitions, LLC

cc: Linda Hunt - SE Acquisitions (Lightyear)
file: SE Acquisitions (Lightyear) - FCC Petition for Waiver
tms: FCCx1201

CR/gs

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

**PETITION FOR WAIVER OF SECTION 54.410(f) OF THE
COMMISSION'S RULES**

SE Acquisitions, LLC d/b/a Lightyear Network Solutions of Kentucky ("Lightyear"), pursuant to Sections 1.2 and 1.3 of the Commission's rules,¹ hereby petitions for a one-time waiver of Section 54.410(f) of the Commission's rules² with respect to a limited category of Lightyear Lifeline subscribers: Lightyear subscribers who enrolled or re-enrolled in the Lifeline program in the state of Kentucky between January 1, 2012, and May 31, 2012.

The Commission's recent *Lifeline Reform Order* required Eligible Telecommunications Carriers ("ETCs") to recertify all Lifeline subscribers as of June 1, 2012 by December 31, 2012, and to report the results to USAC on or before January 31, 2013.³ In the state in which Lightyear is an ETC (Kentucky), Lightyear enrolled or re-enrolled subscribers in Lifeline during the first five

¹ 47 C.F.R. §§ 1.2, 1.3.

² 47 C.F.R. § 54.410(f).

³ *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, ¶¶ 130, 132 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

months of 2012 using a comprehensive certification process that documented the subscribers' eligibility for Lifeline, consistent with the Commission's now-applicable verification rules. In particular, subscribers were not permitted to self-certify their eligibility, but rather were required to provide documentary proof of program-based or income-based eligibility. As a result, for the subscribers in Kentucky who enrolled or re-enrolled between January 1, 2012 and May 31, 2012, a recertification process would impose needless and undue burdens. Far from advancing the Commission's objectives, requiring recertification with respect to subscribers whose eligibility was fully documented earlier this year would introduce significant confusion among those subscribers and could result in the loss of thousands of eligible Lifeline subscribers (given the possibility that many subscribers who recently enrolled or re-enrolled would not respond to recertification notices due to confusion).

In these circumstances, Lightyear submits that a limited, one-time waiver of the recertification requirement—which would apply only to Lightyear Lifeline subscribers in Kentucky who enrolled or re-enrolled between January 1, 2012 and May 31, 2012—would advance the public interest. Good cause exists for the waiver because it will not undermine the Commission's policies, it will avoid unnecessary burdens and consumer confusion, and it will reduce the loss of legitimate Lifeline subscribers who depend on the benefits of the Lifeline program.

BACKGROUND

Lightyear is a designated ETC in Kentucky, and has enrolled or re-enrolled several hundred Lifeline subscribers between January 1, 2012 and May 31, 2012, using a comprehensive verification process to establish those subscribers' eligibility for the Lifeline program. Lifeline applicants were required to present documentation verifying their eligibility for the program to authorized Lightyear employees, including a valid picture identification as well as additional supporting documentation establishing their participation in one of several qualifying programs. The authorized Lightyear

employee reviewed the documentation and also executed a form attesting to the specific type of identification and supporting documentation that was produced and verified. Lightyear's application is appended hereto as Exhibit 1.

As reflected in the attached application, applicants were required to certify under penalty of perjury that they understood that Lifeline assistance is available only for one phone line per household, and that the information in their application was true and correct. Applicants also agreed in writing to notify Lightyear if they ceased participation in their qualifying programs. The applicants were not permitted to self-certify their Lifeline eligibility.

ARGUMENT

I. GOOD CAUSE EXISTS FOR A ONE-TIME WAIVER OF SECTION 54.410(f) OF THE COMMISSION'S RULES WITH RESPECT TO CERTAIN LIGHTYEAR CUSTOMERS

The Commission may waive any provision of its rules upon a showing of "good cause."⁴ In these circumstances, there is good cause for the limited, one-time waiver of the re-certification requirement for the specific subset of Lightyear Lifeline subscribers described above.

A. The Commission's Policies Will Not Be Undermined by a One-Time Waiver in These Circumstances

The Commission's *Lifeline Reform Order* established rules that, among other things, aimed to modernize and reform the Lifeline program and to better detect and prevent waste, fraud, and abuse.⁵ Among the reforms were enhanced initial and annual certification requirements that required ETCs to engage in rigorous certification procedures for Lifeline subscribers, including obtaining documentation of eligibility and requiring consumers to make certifications regarding their

⁴ 47 C.F.R. § 1.3.

⁵ See, e.g., *Lifeline Reform Order* ¶¶ 1, 4.

eligibility.⁶ The Commission also instituted an obligation that ETCs obtain a re-certification of all Lifeline subscribers enrolled in the program as of June 1, 2012 by December 31, 2012.⁷

The limited, one-time waiver that Lightyear requests is consistent with the policies and reforms set forth in the *Lifeline Reform Order*. Lightyear required documentation prior to enrollment or re-enrollment, and also required subscribers to certify to the truthfulness of their applications, as well as their recognition that Lifeline is available only for one phone line per household. Lightyear's certification process thus satisfied the fundamental requirements that the Commission introduced in the *Lifeline Reform Order*. Therefore, the limited one-time waiver of the re-certification obligation would not in any way undermine the Commission's policies or reform efforts.

B. Enforcing Section 54.410(f) In These Circumstances Would Have Adverse

Results

Far from advancing Commission policy, strict adherence to the recertification requirements for the subscribers at issue would result in needless burdens and consumer harm. Recertification creates significant burdens on ETCs, and while those burdens may be justified in many instances as part of necessary reform efforts, in the limited circumstances of Lightyear's recent enrollees recertification following on the heels of documented enrollment or re-enrollment is wholly unnecessary and thus would create burdens without any material corresponding benefits. Moreover, the recertification process is likely to create significant confusion among those subscribers, because they recently enrolled or re-enrolled by providing comprehensive documentation and are likely to be puzzled as to why they are being asked to participate in another certification process so soon after enrolling or re-enrolling. Lightyear accordingly believes that many of the subscribers that it recently enrolled or re-enrolled could ignore or discard any recertification forms. In turn, these Lifeline

⁶ See, e.g., *id.* ¶¶ 98-119.

⁷ See, e.g., *id.* ¶¶ 130-132.

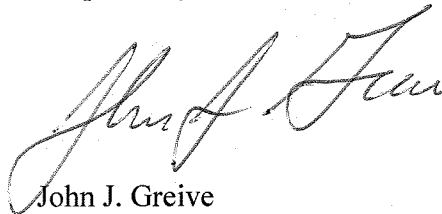
subscribers, who legitimately qualify for Lifeline benefits and very recently established that qualification with documentation, would lose their benefits because of duplicative and confusing administrative requirements rather than because they have actually lost their eligibility for benefits.

Because Lightyear's request is limited to a one-time waiver, the relevant Lifeline subscribers will be subject to recertification requirements in 2013 and beyond. In these limited circumstances, a waiver is strongly in the public interest.

CONCLUSION

For the foregoing reasons, Lightyear requests a one-time waiver of Section 54.410(f) of the Commission's rules with respect to Lightyear subscribers who enrolled or re-enrolled in the Lifeline program in the state of Kentucky, between January 1, 2012 and May 31, 2012.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "John J. Greive".

John J. Greive
Vice President and General Counsel for
SE Acquisitions, LLC d/b/a Lightyear Network
Solution of Kentucky
1901 Eastpoint Parkway
Louisville, KY 40223
502.410.1508

October 31, 2012

EXHIBIT 1

1. APPLICANT INFORMATION [PLEASE PRINT]

FIRST NAME _____ LAST NAME _____ LAST 4 DIGITS OF SSN _____ DATE OF BIRTH _____

STREET ADDRESS _____ CITY _____ STATE _____ ZIP _____

HOME PHONE NUMBER _____ DRIVERS LISCENSE # _____ - STATE _____

2. SERVICE [CHECK ALL THAT APPLY]

- ☐ YES, I am a current Lightyear Subscriber. My Account Number is: _____
- ☐ NO, I am not a Lightyear subscriber. I would like to SWITCH my service to Lightyear. My Provider is: _____
- ☐ I do not have an existing telephone service. I would like to apply for NEW service.

A "Household" is defined as any individual or group of individuals who are living together at the same address as one economic unit. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household.

Do you or any member of the household at the above address currently receive Lifeline assistance from another provider for either land line or mobile service?

- ☐ YES (Lifeline assistance is only available for one (1) land line or mobile phone per household)
- ☐ NO

3. ELIGIBILITY REQUIREMENTS [CHECK ALL THAT APPLY]

I certify under penalty of perjury that my annual household income does not exceed 135% of the Federal Poverty Guidelines, or that I currently participate in one (1) or more of the qualifying federal public assistance program(s) listed below:

- | | |
|---|--|
| <input type="checkbox"/> Medicaid | <input type="checkbox"/> Low-income Home Energy Assistance Program |
| <input type="checkbox"/> Food Stamps | <input type="checkbox"/> Temporary Assistance to Needy Families |
| <input type="checkbox"/> Federal Public Housing | <input type="checkbox"/> National School Free Lunch Program |
| <input type="checkbox"/> Supplemental Security Income | How many persons reside in this household? _____ |

Lifeline service is a non-transferrable benefit, and I acknowledge that I may not transfer my service to any other individual, including another eligible low-income consumer.

I understand that I may be required to re-certify my continued eligibility for Lifeline at any time, including the annual re-certification process, and that failure to do so will result in the termination of my Lifeline benefits.

X _____
APPLICANT'S SIGNATURE DATE

4. NOTIFICATION IN CHANGE OF ELIGIBILITY REQUIREMENT

I understand that I must inform Lightyear Network Solutions within thirty (30) days if (1) I cease to participate in a federal qualifying program, or my annual household income exceeds 135% of the Federal Poverty Guidelines; (2) I'm receiving more than one (1) Lifeline-supported service; or (3) for any other reason, I no longer satisfy the criteria for receiving Lifeline support.

I certify under the penalty of perjury that I understand the notification requirement above, and that I may be subject to penalties if I fail to follow this requirement.

X _____
APPLICANT'S SIGNATURE DATE

5. SERVICE DEPOSIT & CONNECTION FEE NOTIFICATION

☐ At this time I am applying for the Hometown Choice Plan without additional feature packages, service or long distance.

By electing this basic local service plan in conjunction with a successful Lifeline qualification, you will not be required to pay a service deposit to initiate telephone service. A connection fee may be required. However, if you choose to add feature packages, or services at a later date you will be required to pay a service deposit before those services can be started.

6. APPLICANT CERTIFICATION

By signing below, I certify under penalty of perjury that the information I have provided in this form is true and correct to the best of my knowledge. I hereby acknowledge that providing false and fraudulent information to receive Lifeline benefits can lead to de-enrollment from the program, being barred from the program, and potentially, prosecution by the United States Government.

I understand that Lifeline assistance is only available for one (1) land line or one (1) mobile phone per household. If my application is accepted, I authorize Lightyear Network Solutions to activate Lifeline service subject to the terms and conditions specified within this application/certification.

I understand that the completion of this application/certification form does not constitute immediate approval for Lifeline assistance. I authorize Lightyear Network Solutions or its duly appointed representative to access any records (including financial records) required to verify my statements herein and to confirm my eligibility for Lifeline assistance. I also authorize Lightyear Network Solutions to release my records (including financial records) required for the administration of the Lifeline program.

By signing below I also authorize Lightyear Network Solutions or its duly appointed representative to conduct a credit check. (By electing a basic Local Service account with no optional features or services, you will not be required to pay a service deposit or have a credit check conducted to initiate Lifeline service. However, if you decide to upgrade your service or add optional features you may be required to have a credit check performed at that time).

X

APPLICANT'S SIGNATURE

DATE

7. ELIGIBILITY CERTIFICATION [TO BE COMPLETED BY ELIGIBILITY WORKER]

I certify that the above applicant is participating in the following program(s). Check all that apply.

☐ Medicaid

☐ Low-income Home Energy Assistance Program

☐ Food Stamps

☐ Temporary Assistance to Needy Families

☐ Federal Public Housing

☐ National School Free Lunch Program

☐ Supplemental Security Income

ELIGIBILITY WORKER'S NAME

CONTACT NUMBER

CASE NUMBER

COUNTY / STATE

DATE

8. INTERNAL CERTIFICATION [TO BE COMPLETED BY LIGHTYEAR LIFELINE COORDINATOR]

I certify that I have reviewed and accepted the provided documentation for Lifeline eligibility.

PRINT COORDINATOR NAME

COORDINATOR'S SIGNATURE

DATE

CERTIFICATION VALID UNTIL

**Please return this Lifeline verification form to the following Lightyear Network Solutions
Authorized Agent to complete the Lifeline service activation process.**